

Chapter 12.37

NEWSRACKS

(3015-9/89, 3813-1/09, 3837-8/09)

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12.37.010 Definitions. Definitions as used in this section:

- (a) "Newsracks" shall mean any self-service or coin-operated box, container, storage unit or other dispenser, including the pedestal, installed, used, or maintained for the display and sale of newspapers or new periodicals. (3015-9/89, 3837-8/09)
- (b) "Street" shall mean all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks. (3015-9/89)
- (c) "Roadway" shall mean that portion of a street improved, designed, or ordinarily used for vehicular travel. (3015-9/89)
- (d) "Parkway" shall mean that area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. Parkway shall also include any area within a roadway which is not open to vehicular travel. (3015-9/89)
- (e) "Sidewalk" shall mean any surface provided for the primary use of pedestrians. (3015-9/89)

12.37.020 Prohibitions.

- (a) No person shall install, use or maintain any newsrack or other structure which projects onto, into or over any part of the roadway of any public street, or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street. (3015-9/89)
- (b) No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location, or when such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery. (3015-9/89)

12.37.030 Registration of location.

- (a) No person shall install or maintain any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway without first obtaining a permit from the Director of Planning or his designated representative after providing the following: (3015-9/89, 3837-8/09)
 - (1) The location of each newsrack to be installed or maintained in the City by the application; and (3015-9/89)
 - (2) The name, address and telephone number of the applicant. (3015-9/89)
- (b) No more than one notification shall be required per applicant, regardless of the number of newsracks the applicant maintains in the City. (3015-9/89)
- (c) From the above information the Director of Planning or his designated representative shall designate locations and shall be guided therein solely by the standards and criteria set forth in Section 12.37.040 hereof. Such application may be granted either in whole or in part when more than one location is proposed by the applicant, and in any event, when denial is solely as to location, it shall be without prejudice to amend such application to state a different location or locations. (3015-9/89, 3837-8/09)

12.37.040 Standards for installation, maintenance and operation. Except as otherwise provided in Section 12.37.045, any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway shall comply with the following standards: (3015-9/89, 3837-8/09)

- (a) No newsrack shall exceed forty-eight (48) inches in height, thirty (30) inches in width, or two feet in thickness. (3015-9/89)
- (b) There shall be no more than four newsracks in a row and no more than a total of eight in one location. There shall be a three-foot distance between newsrack locations with more than four newsracks. (3015-9/89, 3837-8/09)
- (c) All newsracks shall be a single metal pedestal newsrack with tray, Model K-Jack 100 Mini-view or similar type and shall use no more than two of the solid colors of exterior powder coating as approved by Resolution of the City Council. (3837-8/09)
- (d) The single metal pedestal base shall be sixteen (16) inches in height with a three (3) inch square post and a ten (10) inch square plate mount. Mounts shall be bolted in place on the sidewalk using half-inch metal drop-in anchor bolts. (3837-8/09)
- (e) Newsracks shall only be placed pursuant to approval by the Director of Planning or his designated representative near a curb or adjacent to the wall of a building. Newsracks placed near the curb shall be placed no less than eighteen (18) inches nor more than twenty-four (24) inches from the edge of the curb. Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six inches from the wall. No newsrack shall be placed or maintained on the sidewalk or parkway opposite a newsstand or another newsrack. (3015-9/89, 3837-8/09)
- (f) No newsrack shall be chained, or otherwise attached to any property not owned by the owner of the newsrack or to any permanently fixed object. (3015-9/89, 3837-8/09)
- (g) Notwithstanding the provisions of subsection (b) of Section 12.37.020, no newsrack shall be placed, installed, used or maintained: (3015-9/89, 3837-8/09)
 - (1) Within five (5) feet of any marked crosswalk; (3015-9/89)
 - (2) Within fifteen (15) feet of the curb return of any unmarked crosswalk; (3015-9/89)

- (3) Within five (5) feet of any fire hydrant, fire call box, police call box or other emergency facility; (3015-9/89)
- (4) Within five (5) feet of any driveway; (3015-9/89)
- (5) Within five (5) feet ahead of, and twenty-five (25) feet to the rear of any sign marking a designated bus stop; (3015-9/89)
- (6) Within six (6) feet of any bus bench; (3015-9/89)
- (7) At any location whereby the clear space for the passageway of pedestrians is impeded; (3015-9/89)
- (8) Within fifty (50) feet of any other newsrack containing the same publication. (3015-9/89)
- (h) Newsracks shall carry no advertising except the name of the newspaper or periodical being dispensed on the bottom of the plastic hood and rack cards contained in card pans, which are attached to and located on the front of the newsrack, shall be limited to fifteen (15) inches in height, twenty-two (22) inches in length and shall be limited to the display, sale, or purchase of the newspaper or periodical being dispensed. (3015-9/89, 3837-8/09)
- (i) Each newsrack shall be maintained in a clean, neat and attractive condition and in good repair at all time. (3015-9/89, 3837-8/09)
- (j) Pay the annual permit fee as determined by Resolution of the City Council. Permit to be renewed on an annual basis. (3837-8/09)
- (k) No more than eight (8) newsracks shall be located on any public right-of-way within a space of two hundred (200) feet in any direction within the same block of the same street; provided, however, that no more than sixteen (16) newsracks shall be allowed on any one (1) block. As used herein, "block" shall mean one side of a street between two (2) consecutive intersecting streets. (3015-9/89, 3837-8/09)

In determining which newsracks shall be permitted to remain, the Director of Planning, or his designated representative, shall be guided solely by the following criteria: (3015-9/89, 3837-8/09)

- (1) First priority shall be given to newsracks used for the sale of daily publications (those published on five [5] or more days in a calendar week). (3015-9/89, 3837-8/09)
- (2) Second priority shall be given to newsracks used for the sale of weekly publications (those published on at least one but less than five [5] days in a calendar week). (3015-9/89, 3837-8/09)

In the event that there is a conflict between newspapers within the same priority seeking the same location, and there are insufficient newsrack spaces remaining to accommodate the conflicting newspapers after first filling as many spaces as possible by utilizing the criteria set forth above, then the Director of Planning or his designated representative shall assign the space or spaces at random by placing the names of all applicants for the remaining spaces at a location into a container from which the names shall be drawn, one at a time until the particular locations remaining number of unfilled newsracks has been filled. Such drawing shall be open to the public at a time and date designated by the Director of Planning or his designated representative. (3015-9/89, 3837-8/09)

- (l) No person shall display or exhibit in any public newsrack or other display device, any material which is defined by California Penal Code Section 313 as harmful to minors unless such material is: (3015-9/89, 3837-8/09)
 - (1) displayed in an area from which minors are excluded and, (3015-9/89)

(2) is covered by a device, commonly known as a "blinder rack", such that the lower two thirds (2/3) of the material is not exposed to view. (3015-9/89)

(m) No person shall display or exhibit in any public newsrack or other display device, other than in locations from which minors are excluded, material which exposes or exhibits to public view, any depiction of human genitalia, the pubic, or anal region, or the breast of a female person other than a child under the age of puberty, or any description, pictorial or otherwise, of explicit sexual acts, sexual organs or excrement where such depiction or description has as its purpose or effect sexual arousal or affront. (3015-9/89, 3837-8/09)

12.37.045 Downtown Newsracks. (3813-1/09)

(a) In addition to all other requirements of this chapter, the following regulations shall also apply to all newsracks in the Downtown Specific Plan Boundary as described and defined in the Zoning and Subdivision Ordinance. (3813-1/09)

(b) The City Council may from time to time adopt a resolution designating the number and locations of newsracks in the Downtown Specific Plan Boundary. (3813-1/09)

(c) Any newsracks in the Downtown Specific Plan Boundary shall, in addition to all other requirements of this chapter, comply with the following: (3813-1/09)

(1) Newsracks shall only be at the locations and in the numbers specified by resolution of the City Council. (3813-1/09)

(2) There shall be no more than four newsracks in a row and no more than a total of eight in one designated location. There shall be a three-foot distance between newsrack locations with more than four newsracks. (3813-1/09)

(3) All newsracks shall be a single metal pedestal newsrack with tray, Model K-Jack 100 Mini-view or similar type, with a triangular top, four and three-fourths (4-3/4) inches high and fourteen (14) inches deep. (3813-1/09)

(4) All newsracks including the triangular top, newsrack, tray, pedestal and pedestal base shall use the RAL 6006 Code color exterior powder coating. (3813-1/09)

(5) The single metal pedestal base shall be sixteen (16) inches in height with a three (3) inch square post and a ten (10) inch square plate mount. Mounts shall be bolted in place on the sidewalk using half-inch metal drop-in anchor bolts. (3813-1/09)

(6) Newsracks shall not exceed thirty (30) inches in height, twenty-seven (27) inches in width, and eighteen (18) inches in depth (single deck only). (3813-1/09)

(7) Newsracks shall carry no advertising except the name of the newspaper or periodical being dispensed on the bottom of the plastic hood and racks cards contained in card pans, which are attached to and located on the front of the newsrack, shall be limited to fifteen (15) inches in height and twenty-two (22) inches in length and shall be limited to the display, sale or purchase of the newspaper or periodical being dispensed. (3813-1/09)

(8) Pay the annual permit fee as determined by resolution of the City Council. Permit to be renewed on an annual basis. (3813-1/09)

(9) First priority will be given to current newsrack permit holders in existing locations and then priority will be given in accordance with the provisions of the chapter. (3813-1/09)

12.37.050 Newsracks identification required. Every person or other entity which places or maintains a newsrack on the streets of the City of Huntington Beach shall have his or its name, address and telephone number affixed thereto in a place where such information may be easily seen. Prior to the designation of a location by the Director of Planning or his designated representative, the applicant shall present evidence of compliance with this section.

(3015-9/89, 3837-8/09)

12.37.060 Newsrack violations.

- (a) Any newsrack installed, used or maintained in violation of the provisions of this article shall be tagged with a "notice of violation" stating the violation, date of tagging, notice of intention to remove the newsrack if the violation is not corrected within ten (10) days, and procedure for obtaining a hearing before the Director of Planning or his designated representative, if desired. (3015-9/89, 3837-8/09)
- (b) Notwithstanding subsection (a), in the case of violations of this article relative to restrictions upon attachments of newsracks to property other than that owned by the owner of the newsrack, to fixed objects, or to each other, and upon location of newsracks, the Director of Planning or his designated representative may, as an alternative to tagging such newsrack, move, align, remove such attachment, or otherwise move such rack or racks in order to restore them to a legal condition. (3015-9/89, 3837-8/09)
- (c) Any newsrack which has been tagged and remains in violation of the provisions stated on the tag past the ten-day (10) correction period, and no hearing has been requested, said newsrack shall be removed by the Director of Planning or his designated representative and stored in any convenient place. The Director of Planning or his designated representative shall notify the owner thereof by mailing a "notice of removal" to the last known address of the owner. Such notice shall state the date the newsrack was removed, the reasons therefore, the location and procedure for claiming the newsrack, and the procedure for obtaining a post-removal hearing before the Director of Planning or his designated representative, if desired. Any such newsrack removed and stored pursuant to these provisions shall be released to the owner thereof if claimed within forty-five (45) days after such removal and upon the payment of reasonable charges of removal and storage therefor. Upon failure of the owner to claim such newsrack and pay the reasonable charges within forty-five (45) days after the mailing of written notice of removal, such newsrack shall be deemed to be unclaimed property in possession of the Department of Planning and may be disposed of pursuant to the provisions of this code. (3015-9/89, 3837-8/09)
- (d) Any newsrack in violation of the provisions of this article, which violation creates an immediate danger to the health, safety or welfare of the public, which violation cannot be corrected by moving or otherwise repositioning of the newsrack, said newsrack may be summarily removed and stored in a convenient location so as to eliminate the danger to the health, safety and welfare of the public. The Director of Planning or his designated representative shall notify the owner thereof by mailing a "notice of removal" to the last known address of the owner. Such notice shall state the date the newsrack was removed, the reasons therefor, the location and procedure for claiming the newsrack, and the procedure for obtaining a post-removal hearing before the Director of Planning or his designated representative, if desired. Any such newsrack removed and stored pursuant to this subsection shall be released to the owner thereof if claimed within forty-five (45) days after the mailing of written notice of removal and upon the payment of reasonable charges of removal and storage. (3015-9/89, 3837-8/09)

12.37.070 Same, applicability. Except as otherwise provided for in Section 12.37.045, the provisions of this article shall apply to all newsracks, whether installed and maintained prior to or after the effective date of any of the provisions herein. Those newsracks installed prior to the effective date of any provision enacted hereunder shall be brought into compliance with said provisions as follows: (3015-9/89, 3837-8/09)

- (a) All newsracks on Beach Boulevard by September 30, 2009; (3837-8/09)
- (b) All newsracks on Warner and/or Edinger by December 31, 2009; (3837-8/09)
- (c) All remaining newsracks by March 31, 2010. (3837-8/09)

Any newsrack not brought into compliance within the aforementioned time period shall be deemed to be in violation of this article. (3015-9/89)

12.37.090 Hold harmless. Every person or other entity which places or maintains a newsrack on a public sidewalk or parkway in the City of Huntington Beach shall file a written statement with the Director of Planning or his designated representative which complies with the current City policy, rules and/or regulations on Hold Harmless clauses. (3015-9/89, 3837-8/09)

12.37.100 Insurance. The City requires every person or other entity which places or maintains a newsrack on a public sidewalk or parkway in the City of Huntington Beach to provide insurance as required by current City policy, rule and/or regulations. (3015-9/89)